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## Detention - Sweden | DIP EUAA

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### Overview

### Relevant EU legislation

Sweden is bound by the recast Reception Conditions Directive, the recast Asylum Procedures Directive and the Dublin III Regulation and has transposed their provisions through the [Aliens Act \(2005:716\)](#), 29 September 2005.

### National legislation

Sweden has not transposed the recast Reception Conditions Directive as the Swedish reception system is already in line with the standards. Reception is regulated in the amended [Law on Reception of Asylum Seekers and Others \(1994:137\)](#). However, there is ongoing legislative work in order to further align legislation with the recast Reception Conditions Directive.

Sweden transposed the recast Asylum Procedures Directive by the amended [Aliens Act](#) (2005:716), 29 September 2005 and the [Act concerning Special Controls of Certain Aliens](#) (2022:700), June 2022.

## Competent authority and stakeholders

Area	National authority/ stakeholder	Assistance to competent authority
<b>Detention decision</b>	Detention orders can be issued by the police, the Swedish Migration Agency, the Migration Court, the Migration Court of Appeal and the Security Police.	n/a
<b>Administration and management of detention facilities</b>	Detention centres are operationally run and financed by the Swedish Migration Agency and organised under the three regional divisions	n/a
<b>Information provision in detention</b>	Swedish Migration Agency   <a href="#">Migrationsverket</a>	UNHCR and NGO
<b>Interpretation services in detention</b>	Swedish Migration Agency   <a href="#">Migrationsverket</a>	
<b>Access to the procedure and provision of asylum information in detention</b>	Swedish Migration Agency   <a href="#">Migrationsverket</a>	n/a (although there is information given by NGOs alike)
<b>Detention for the Dublin procedure</b>	Swedish Migration Agency   <a href="#">Migrationsverket</a> / police	n/a

Area	National authority/ stakeholder	Assistance to competent authority
<b>Processing of asylum applications of applicants who are in detention</b>	Swedish Migration Agency   <a href="#">Migrationsverket</a>	n/a
<b>Legal assistance and representation in detention</b>	Swedish Migration Agency   <a href="#">Migrationsverket</a> / police	n/a
<b>Review of detention</b>	Swedish Migration Court   Migrationsdomstolen if appealed. If it is a matter of prolonging the detention period or not, it will be done by the Swedish Migration Agency or the police, depending on which authority is handling the case.	n/a

## Grounds for detention during the asylum procedure

### Grounds for detention in national law

#### Detention in the context of identification or verification of identity

According to national law, applicants for international protection can be placed in detention if the identity is unclear on arrival or if the person applies for a residence permit and he/she cannot establish that the identity stated is correct and the right of the foreigner to enter or stay in Sweden cannot be assessed (Section 1, Chapter 10 [Aliens Act](#) (2005:716)). This does not mean, however, that all foreigners who do not have passports or identity documents can be detained. If a foreigner makes it probable that their claimed identity is correct, a decision to detain should not be taken. A complete proof of identity is thus not required.

## **Detention to determine elements on which the application for international protection is based, in particular where there is a risk of absconding**

According to national law (Chapter 10 [Aliens Act](#) (2005:716)), detention can be ordered if it is probable that a person will be refused entry or be expelled under Chapter 8, Section 2 (lack of adequate funds, criminal offences, engagement on activities of sabotage, espionage or unlawful intelligence activities), Section 3 (expired residence permit), Section 6 (decision to be enforced as it is obvious that there are no grounds for asylum and that a residence permit is not to be granted on any other grounds), Sections 8, 9, 10 or 11 (expulsion on account of criminal offences) of the Aliens Act or to prepare or enforce a decision of refusal of entry or expulsion. An order to detain someone under this ground may only be issued if there is reason to assume, on account of the foreigner's personal situation or other circumstances, that they may go into hiding or pursue criminal activities in Sweden or in other ways hamper the removal.

According to the Aliens Act (Chapter 1, Section 15), for the assessment of the risk of absconding, only the following circumstances may be taken into account. If the person:

- has previously absconded;
- has stated that he/she does not intend to leave the country after an expulsion or refusal of entry order;
- has used a false identity;
- has not helped to clarify his/her identity, thereby obstructing the examination of the application for a residence permit;
- deliberately supplied incorrect information or withheld material information;
- formerly transgressed a notified entry ban;
- has been convicted of a crime that can lead to prison or has been expelled by a public court because of a crime.

## **Detention in the context of a procedure to decide on the applicant's right to enter the territory**

According to national law, applicants for international protection can be placed in detention if it is necessary to investigate the right of the foreigner to remain in

Sweden. In such cases, however, strong reasons are needed, for example that it was not possible to interview the foreigner during the investigation about entry or exit. In practice, this will happen in exceptional circumstances only, for example, when a high number of foreigners arrive at the same time. The mere fact that detention would facilitate the procedure is not sufficient.

There are no detention facilities at the borders, but there are detention facilities in nearby areas. By law, the police authority cannot detain a foreigner for longer than 6 hours to investigate an entry or exit according to the Schengen Borders Code. This does not apply if a detention order has been issued.

Unaccompanied minors or families with children are only detained in the return process and not in the procedure to refuse entry at the border.

### **Detention in the context of a return procedure**

Detention should only be used as a last resort and only with the purpose to keep the person available, either for an examination of their right to stay (for a maximum of 48 hours) or for a forced return (when the maximum time in detention is longer).

A detention due to a pending enforcement must be tried within 2 months from the day the detention order was enforced, which can be extended for a further 2 months. A foreigner may be held in detention pending an enforcement for a maximum of 12 months. For the detention to last longer than 3 months, a special reason for a longer period of time is required, for example that enforcement will take longer due to a lack of cooperation from the foreigner or due to time to procure the required documents.

The time limits of 3 and 12 months do not apply if the foreigner has been deported due to a crime by a general court.

### **Detention in the context of national security and public order**

Chapter 8, Section 7a regulates the possibility to expel a third-country national for reasons of public order and security. Detention for these persons is foreseen until the expulsion is effective.

## **Detention for the purpose of a Dublin transfer**

The Swedish Migration Agency can decide to detain an applicant during the Dublin procedure, pursuant to Article 28 of the Dublin III Regulation.

The Migration Court of Appeal ruled in 2015 that, in Dublin cases, the Aliens Act provisions on detention are not applicable. The threshold for when detention can be used according to the Dublin III Regulation must be met. In a recent ruling, after referring preliminary questions to the CJEU on the matter, the Migration Court of Appeal held that the applicable rules on detention under the Dublin III Regulation cannot be read in such a way as to hinder the carrying out of transfers to other EU countries and the Dublin III Regulation provisions on the length of detention must be read in line with the preamble of the regulation and national law.

An assessment of the risk of absconding must be made in line with Chapter 1, Section 15 of the Aliens Act.

## **Less coercive measures (alternatives to detention)**

The following alternatives to detention are foreseen:

- Obligation to report to police authorities or the Swedish Migration Agency (SMA) at regular intervals;
- Promoting voluntary return programmes. Information about voluntary returns is distributed by the SMA and the police authority during discussions about a return;
- Entrusting the guardianship of an unaccompanied minor to a social agency.

In practice, alternatives to detention are common. The obligation to surrender a passport, travel document or identity document is mainly used when a person is applying for asylum. Reporting obligations and the possibility to reduce daily allowances or to fully withdraw the right to daily allowances and housing are mainly used in the return procedure. Supervision is used instead of a detention as a step to see if the foreigner complies with the decision of supervision and if it is a sufficient measure to keep the foreigner available for the authority. Supervision can be used for a foreigner held in detention where a less intrusive measure than detention can

be considered sufficient (in accordance with the ruling of the Supreme Court of Appeal in February 2020).

## **Application for international protection and processing while in detention/impact on the asylum procedure**

People in detention may apply for international protection while in detention for an illegal entry or stay in Sweden. This may have consequences on the applicant's detention depending on the circumstances of the application.

If the application is made to an authority other than the authority competent to register (the SMA), the time limit to register the application is 1-3 days.

The SMA, the Migration Court and Migration Court of Appeal prioritise the investigation and processing of an asylum application and the handling of an appeal lodged by a detainee. A detention order does not change the outcome of the asylum application. The application is only prioritised so that detention does not last longer than necessary.

## **Procedural safeguards**

### **Access to information and interpretation**

Detained asylum applicants are informed of the rules of the facility and have the right to communicate with other people, including family members, legal advisers/counsellors, UNHCR representatives and NGOs (Chapter 11, Sections 1, 3, 4 and 10 the [Aliens Act](#)).

Detainees are not entitled to translation services, but detention staff try to facilitate this whenever possible by helping with translations. Detainees are entitled to interpretation services for medical treatments, meetings and interviews regarding their migration case. Interpreters are also used when a particular need arises, for example when a detainee is distressed and needs to talk.

## **Legal assistance and representation**

In general, a detainee has the right to free legal aid in matters of detention and treatment of the detainee. According to Chapter 18, Section 1 of the [Aliens Act](#), legal assistance must be provided to people who have been held in detention for more than 3 days. Legal assistance is provided unless it is presumed that the person is not in need of assistance.

A legal counsel should always be appointed for unaccompanied minors.

A public counsel who is appointed to a case concerning a detention measure also has the duty to appeal a decision on supervised visits (Chapter 11, Section 4 Aliens Act). The Migration Court of Appeal ruled in a [judgment](#) of 22 June 2020 that the public adviser is thus entitled to compensation for the work carried out within the framework of the appeal of the decision.

## **Length of detention**

A foreigner cannot be held in detention for an investigation for longer than 48 hours. A detention order due to unclear identity must be tried within 2 weeks from the day the detention order was enforced. A detention order can be extended by 2 weeks.

A detention due to a pending forced return must be tried within 2 months from the day the detention order was enforced, which can be extended by 2 months. A foreigner can be held in detention pending an enforcement for a maximum of 12 months. In order for the detention to be able to last longer than 3 months, a special reason is required for a longer period of time, such as the enforcement will take longer due to a lack of cooperation by the foreigner or it is taking time to procure the required documents.

The time limits of 3 and 12 months do not apply if the foreigner has been deported due to a crime by a general court.

Deadlines according to the Dublin III Regulation are provided in Article 28 of the Dublin III Regulation.

A minor may not be kept in detention for longer than 72 hours, or for exceptional reasons, a further 72 hours.

## **Judicial review of detention**

A detention order can be appealed regardless of which authority issued the detention order. The appeal is submitted to the authority that issued the order. The authority then submits the appeal for an examination to the next instance. The Migration Court is responsible for the examination of an appeal of a detention order issued by the police authority, the SMA or the Security Police, .

The right to appeal a decision on supervision and detention is not limited in time.

## **Specific conditions relating to detention**

### **Profiles of applicants, type of facility and capacity**

Six detention centres, located in Gävle, Märsta, Flen, Mölndal, Ljungbyhed and Åstorp, are operated and financed by the Swedish Migration Agency (SMA). Some of the centres have a separate section for detained women. Those who are considered to be a security risk may be placed in prison rather than a detention centre. These decisions are taken on a case-by-case basis and it depends on the level of the security risk. If it is manageable, the detainee who poses a security risk will be placed in isolation at the detention centre.

Work will continue to further expand detention capacity throughout Sweden. Towards the end of 2027, the SMA plans to open a [new detention centre](#) in northern Sweden with 30 places and to further expand the capacity in Flen with 70 places by remodelling an existing property. The total capacity at the end of 2024 was 598 places.

According to the Swedish approach, the conditions at detention centres should be similar to those found at SMA reception centres. The main difference between a reception unit and a detention facility should be that the latter imposes a restriction of movement and that it is not possible to leave the premises.

## **Conditions of detention**

**Specialised detention facilities:** There are no pre-removal centres. There are no other specialised detention facilities, for instance, for minors.

**Access to open-air space:** Detainees have the right to spend time outdoors (Chapter 11(3) [Aliens Act](#)). According to the Swedish Migration Agency's internal instructions, every detainee should be given the opportunity to spend at least 1 hour outdoors every day. This is a minimum and more time should be given, if possible, without jeopardising the security of the detention centre. Time in an outdoor yard is only given during daylight, supervised by a staff member.

**Visitors/access to external communications, including the role of UNHCR, access to UNHCR facilities and legal counsellors:** Detainees can receive visits and have contacts with people from outside the premises, except if the visit or contact would hamper the work carried out at the detention centre. If necessary for reasons of security, a visit may be monitored. A visit by a public counsel may only be monitored if the counsellor or the lawyer personally requires this.

Detainees should be able to receive visits, call, write and in various ways have virtually unlimited contact with other people, NGOs, communities and authorities outside the premises. NGOs that wish to visit a detainee should notify the detention facility. Such visits should be granted, unless a visit for some practical reason is not possible. NGOs regularly visit detention facilities to inform detainees about their work, answer questions and offer help and support.

Visits take place in designated rooms outside of the living ward. A lawyer can be contacted by official telephone if it is not possible by mobile phone.

In practical terms, the detainee informs that he/she wants to have a visitor and chooses a time when a visitor room is available. If a visitor presents themselves unannounced at the entrance, the authority will check with the detainee, and the visit can happen if a room is available.

Meeting rooms are equipped with some furniture (table, chairs or a sofa). It varies across detention centres and between visitor rooms at a detention centre. When there are children, the room may have some toys.

In general, visits are for 1 hour, but it depends on the relationship between the visitors and the detainees (e.g. families) and where the detention process is. It also depends on how many detainees want to have a visit that day. If only a few of them have a visit, this can be longer.

**Access to legal assistance:** Detainees have access to free legal advice. If a third-country national has been held for more than 3 days in detention in connection with an enforcement of a refusal of entry or expulsion order, a legal representative is normally appointed. A legal counsel should always be appointed for unaccompanied minors.

**Privacy and confidentiality:** Although sleeping accommodations cannot be locked, the staff will always knock before entering. However, there are no single rooms so detainees will share rooms with others. The detainees also have the possibility to have a separate inbox/mailbox for their dealings with healthcare representatives in order to avoid involving staff at the detention centre.

**Access to education (school for minors, language courses, etc.):** Whenever possible and depending on staff availability, access to education and related activities are granted. There is a TV room, board games, gym, table tennis table, etc. Access to these activities is possible either at any time or according to a schedule. There are also multi-religious/neutral prayer rooms with access to religious literature.

**Opportunity to leave the detention facility:** Detainees can move freely within each facility, though men may not enter women's quarters. Detainees can leave the detention facility with the supervision of staff in a car if they need to see a dentist or

go to the hospital for urgent matters.

**Freedom of movement within the detention centre:** Detainees can move freely within the accommodation unit. The outdoor space and the exercise area may have specific hours for use.

**Language support (translation and interpretation services):** Detainees are not entitled to translation services, but detention staff try to facilitate this whenever possible by helping with translations. Detainees are entitled to interpretation services for medical treatments and meetings and interviews regarding their migration case. Interpreters are also used when a particular need arises, for example when a detainee is distressed and needs to talk.

**Recreational activities, leisure time:** Activities may differ across detention centres, but all of them have table tennis, Internet, board games and books. Other activities are arranged by staff based on their interests, such as yoga, physical training and cooking.

There is a leisure room in each ward that is available around the clock. There is also access to a gym room with workout equipment during most of the day, but it is normally closed during the night. TV-games can be played in a designated room. There is a walking yard available at least 1 hour a day, where it is possible to play basketball, volleyball or football.

If there are children in the detention centre, arrangements are made to have age-appropriate activities.

NGOs have the possibility to conduct activities and performances in detention centres.

**Medical care, psychological assistance:** Detainees have access to the same level of health and medical care as a person who has applied for international protection, even if the person has not applied for this. If a detainee requires hospital care, he/she is given treatment. Health and medical care are covered if it cannot be deferred, which includes care and treatment of diseases and injuries when even a moderate delay can result in serious consequences for the patient. Detainees pay SEK 50 (about EUR 5) for a visit to a doctor in the public primary care and for

medical treatment. The same fee applies to appointments.

According to the Swedish Communicable Diseases Act, preventive child and maternity care are completely free. According to local arrangements, detention facilities provide detainees with the possibility to meet a nurse who visits the facility regularly.

**Use of mobile devices:** Mobile phones are allowed if they do not have a camera. A mobile phone with a camera is securely locked up during the stay at the detention centre. A detainee can borrow a simpler mobile phone from the detention centre to keep in contact with a lawyer, friends and family. The facilities have computers with Internet connection for the use of detainees (with the possibility of using communication applications without camera).

**Room size:** There is no legal regulation on the size of the detention cell. It can differ across detention centres, but the goal is that it should be no less than 5 sq.m. per person. There are two to four people per room. Families are accommodated separately, sometimes with other women. Women in detention centres are normally in their own ward, unless there are compelling reasons not to and the woman accepts to be in a normal ward for a limited time. Generally, women are held at one detention centre outside of Stockholm, but they could be at another centre if, for example, travel from a nearby airport is approaching.

**Room equipment:** Bed (can be either single beds or bunk beds), simple cabinet/wardrobe. Detainees are allowed to keep their belongings as long as they cannot constitute a threat towards other detainees or staff. Lighters, sharp objects, tools, etc. are not allowed. Laundry services in connection with the living ward are available around the clock in some detention centres but not in all. In most centres the laundry room will be closed at night but can be opened by staff when deemed necessary

## **Detention of applicants with special needs**

## **Legislative overview**

Detention is used only as a last resort, and it is rare for vulnerable persons or minors to be placed in detention. If someone is assessed as not suitable for detention, e.g. a woman in the final months of pregnancy and people with special needs, they are not detained.

**Detention of minors:** It is possible to detain one of the parents and not the rest of the family. Unaccompanied minors or families with children are only detained in the return process and not in the procedure when they are refused entry at the border. A minor may not be separated from both of the guardians by taking the minor or the guardian into detention. A minor who has no guardian in Sweden may only be taken into detention if there are extraordinary circumstances.

If a detainee requires hospital care, he/she is provided the care.